



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 4, 1996

Mr. Patrick S. Dohoney
Assistant District Attorney
Tarrant County
Office of the Criminal District Attorney
Justice Center
401 W. Belknap
Fort Worth, Texas

OR96-1821

Dear Mr. Dohoney :

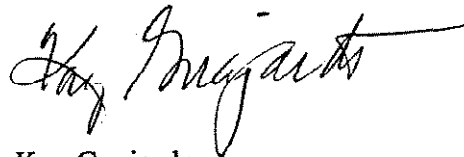
You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101234.

You inform us that the Tarrant County Personnel Department received a request for "a list of the ten exempt positions allow by Section 158.038 for the sheriff's Dept" on July 12, 1996. You asked for an open records decision on this matter, referencing section 552.103 of the Government Code, on July 23, 1996. You explain that you personally did not receive the request until the afternoon of July 22, 1996. Notwithstanding the fact that you personally did not receive the request until July 22, 1996, the county has failed to ask for an open records decision on this matter within the statutory ten-day deadline. *See* Gov't Code § 552 301. Consequently, under Government Code section 552.302, the information is presumed to be public information. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. When an exception to disclosure that is designed to protect the interests of a third party is applicable, the presumption of openness may be overcome. *See* Open Records Decision No. 552. (1990). The county has raised section 552.103, an exception that protects the litigation interests of a governmental body. We conclude that the county has not raised any specific compelling reasons to overcome the presumption that the information is public. *See* Open Records Decision No. 591 (1991) at 2 n. 2. Accordingly, the county may not withhold the requested information from the requestor.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal flourish extending to the right.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 101234

Enclosure: Submitted document

cc: Mr. Darrell Clements
648 Elm Street
Hurst, Texas 76053
(w/o enclosure)